

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 6 and 12 were previously cancelled.

Claims 1-5, 7-11, and 13-16 are currently cancelled.

Claims 17-20 are currently being amended.

Claims 21-35 are currently being added.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 17-35 (19 claims) are now pending in this application.

On August 15, 2005, the undersigned and Examiner Jiang conducted a telephonic interview to discuss the Office Action and proposed amendment. Through considerable discussion, an agreement had not been reached.

On page 2, paragraph 1 of the Office Action, the Examiner has maintained the restriction requirement. The Examiner has made the restriction requirement final. Applicant elected to prosecute Group III (claims 17-20) and with this amendment, has cancelled claims 1-16 from further consideration, but reserves the right to file a divisional application(s) at a future date.

On page 2, paragraph 3 of the Office Action, the Examiner has rejected claims 17, 19 and 20 under 35 U.S.C. §103(a) as being unpatentable over Koble (USPN: 3,197,183) in view of Morrison, et al (USPN: Des. 244,691) and further in view of Kinkel (USPN: 6,367,277). The Examiner states that Koble discloses an evaporative cooler but does not disclose details of the pad frame and width of the pad. The Examiner believes that Morrison discloses a pad panel having first and second flanges extended inwardly toward one another and that Kinkle discloses a pad that extends across the entire width of the housing. The Examiner states that it "would have been obvious to one of ordinary skill at the time the invention was made to provide the apparatus of Koble with the panel frame of Morrison and with of Kinkle further

structure design of an evaporative cooler. In regard to the media cabinet being removable, the pin will be removed first and the pad will be slid down and then lift the pad from the housing”.

In response, Applicant respectfully traverses the Examiner’s characterization of the cited art. Specifically, Koble does not disclose a media cabinet. Morrison discloses a combined filter and panel for evaporative air conditioner which, as seen in Figs. 1 and 2 discloses side walls that angle from the front wall. Such configuration reduces the available media pad area and teaches away from the perpendicular side walls disclosed and claimed in the present application. Further, Koble does not disclose or teach that the media pad holder can be removed from the cooler housing as disclosed and claimed in the present application. Specifically, Koble maintains the media pad holder in position with a pin 31 whereas the present application discloses a third flange on which the media cabinet pivots.

Applicant has amended independent claim 17 to clarify that the side inlet wall of the media cabinet is “perpendicular to the front and rear walls” of the media cabinet. Support for this amendment is illustrated in Fig. 3 of the application as originally filed. Applicant has also made some housekeeping amendments to independent claim 17 by adding the phrase “an evaporative cooler” in front of the term “housing” in the first phrase and adding the word “cabinet” after the word “media” in the last phrase to be consistent with that language in that last phrase of claim 17.

Applicant has amended claims 18, 19 and 20 to clarify that those claims depend directly or indirectly from the evaporative cooler claimed in claim 17.

Applicant has added new claims 21-31 which depend either directly or indirectly from independent claim 17 and provide additional definition to the evaporative cooler claimed in claim 17. Applicant has also added independent claim 32 and dependent claims 33-35 which depend directly from independent claim 32 which also claims an evaporative cooler.

As stated above, the Applicant has pointed out the differences in structure, functionality or inoperabilities of the various elements cited by the Examiner in the prior art patents combined by the Examiner in making his obviousness rejection. The Examiner has not made any showing of the teaching or instruction to modify Koble with a media cabinet, or a flange for pivoting and lifting the media cabinet from the evaporative cooler housing nor any teaching or suggestion to modify Morrison to provide perpendicular side walls.

Applicant submits that, as stated above, the claims as amended are patentably distinct from the prior art cited by the Examiner and that one ordinarily skilled in the art would not be compelled to combine the elements cited by the Examiner to obtain that which is disclosed and claimed in the present application. Applicant believes that the Examiner is merely speculating as to the reasons for combining the Koble, Morrison and Kinkle references, specifically, the combination of the references have to be based on a teaching, motivation or suggestion **in the references** to combine them. There is no such teaching in Koble, Morrison or Kinkle. The reasons cited by the Examiner for his suggested combination is not identified in either Koble or Morrison and in fact the suggested combination and modification to Koble would render the Koble invention unsatisfactory for its intended purpose and ineffective. See MPEP §2143.01. Accordingly, Applicant respectfully requests that the Examiner withdraw his rejection of claims 17, 19 and 20 as amended under 35 U.S.C. §103(a).

On page 3, paragraph 4 of the Office Action, the Examiner has rejected claim 18 under 35 U.S.C. §103(a) as being unpatentable over Koble/Morrison/Kinkle as applied to claim 17 above, and further in view of Meek (USPN: 3,395,900) or Lundin, et al (USPN: 6,409,157). The Examiner cites Meek and Lundin for disclosing a rigid cooling media for use in a cooler modified as described by the Examiner with Koble/Morrison/Kinkle. In response, Applicant reiterates their comments with respect to Koble/Morrison/Kinkle and submits that one ordinarily skilled in the art would not combine those references to obtain that which is disclosed and claimed in the present application since there is no teaching or suggestion to provide that which is disclosed and claimed in the present application. Therefore, Applicant submits that claim 18 is patentably distinct over the art cited by the Examiner and respectfully requests that the Examiner withdraw his rejection of claim 18 under 35 U.S.C. §103(a).

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a

check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

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